

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Chris and Robin Pecak
DOCKET NO.: 03-01995.001-R-1
PARCEL NO.: 08-03-307-003

The parties of record before the Property Tax Appeal Board are Chris and Robin Pecak, the appellants, and the DuPage County Board of Review.

The subject property has been improved with a two-story frame and masonry exterior constructed single family dwelling consisting of 4,064 square feet of living area. Features of the property include a fireplace, central air conditioning, a full unfinished walkout basement of 1,980 square feet of building area plus a one-stall basement garage of 322 square feet of building area, and a three-car attached garage of 1,213 square feet of building area. The improvement was originally built in 1956 and has been remodeled with the latest work done in 2002. The dwelling is located on a 28,500 square foot parcel in Lisle, Lisle Township, Illinois.

Appellant Chris Pecak appeared before the Property Tax Appeal Board to present this appeal on behalf of the appellants. Appellants do not dispute the land assessment and instead only contest the improvement assessment. The appeal petition noted comparable sales, assessment equity and recent construction as the bases for the instant appeal.

For comparable sales data for an overvaluation argument, appellants submitted a grid analysis reflecting sales of three suggested comparable properties. Two of the sales occurred in 1992 and 1997 with the third sale occurring in 2003. Based upon the Official Rules of the Property Tax Appeal Board, submission of comparable sales of properties in 1992 and 1997 are not recent enough for market value purposes for this assessment complaint for 2003. With only one recent sale for consideration, under the rules of the Board, appellants have submitted insufficient evidence for an overvaluation claim based on comparable sales.

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	30,800
IMPR.:	\$	115,824
TOTAL:	\$	146,624

Subject only to the State multiplier as applicable.

(86 Ill. Admin. Code, Sec. 1910.65(c)(4)). This purported basis of appeal will not be addressed further and based upon the presentation of appellants at the hearing, this was not the crux of their appeal in this matter.

In support of their equity claim, appellants submitted assessment data and descriptions of three comparable properties located within one mile or less of the subject property. Appellant testified these comparables were chosen due to the age of the original dwelling and the fact that the properties were all extensively remodeled in the recent past like the subject property.

Two of the properties were two-story frame or frame and stucco dwellings and one property was a one-story brick exterior constructed dwelling. These comparable dwellings were originally constructed between 1951 and 1958; each improvement had undergone remodeling and/or renovation between 1994 and 1999. The dwellings ranged in size from 3,116 to 4,397 square feet of living area. Features included one, two or three fireplaces in each dwelling. Each property included central air conditioning and a garage ranging in size from 624 to 1,325 square feet of building area. Each property also included a basement, one of which was fully finished and two of which were noted to be walkout basements. These comparables had improvement assessments ranging from \$84,510 to \$115,640 or from \$24.64 to \$27.12 per square foot of living area based on the appellants' stated sizes of the comparables. The subject improvement was assessed at \$135,720 or \$33.46 per square foot of living area.

In addition, in their petition appellants indicated that the subject improvement was added to and renovated. In testimony, appellant Pecak indicated that the original frame and foundation of the dwelling remained; in fact, the appellants continued to reside in the property during the course of renovations. As stated in the appeal petition, between September 15, 2001 and July 15, 2002 the property was renovated and expanded for a cost of approximately \$300,000 with the appellants acting as general contractors for an estimated value of \$30,000 plus an additional \$5,000 in value for the appellants' own electrical work. In addition, the appeal petition sets forth an expenditure of \$90,000 for land and an original purchase price of \$126,000 in February 1996. Not including the original purchase price, these stated expenses total \$425,000 in land and building construction costs.

During the course of his testimony, appellant Pecak made note of the fact that the subject property utilizes well-water rather than city water which he contends would have an impact on market value. He also asserted that uniformly driveways were not assessed within the township even though they add value to a

property. Appellant Pecak further contended that the subject property had been "double-assessed" for both a walkout basement and for a basement garage since the walkout basement area was incorrectly inclusive of the basement garage at 2,302 square feet in the calculation ladder of the property record card for the subject along with an additional \$200 cost figure for a basement garage. Appellants also questioned the uniformity of assessments with regard to dormers and appellants asserted they had been assessed for 880 square feet of brick paver patio which did not exist as of January 1, 2003.

On cross-examination, appellant clarified that a brick paver patio was installed in September 2003, but the appellant disputes its size of 880 square feet and also disputes that it should have been assessed as of January 1, 2003.

On the basis of all the foregoing data, the appellants requested an assessment for the subject improvement of \$105,867 or \$26.10 per square foot of living area. The subject's total assessment request reflects an estimated market value of \$317,633 using the three-year median level of assessments for DuPage County of 33.33% as calculated by the Illinois Department of Revenue.

During the course of presenting testimony, appellant Pecak asserted that comparable properties were inequitably assessed within the jurisdiction. Appellant Pecak asserted that walkout basements and basement garages were not treated uniformly by the township assessor, namely, for properties with basement garages, the property was not assessed for having a walkout basement. More importantly as to the subject property, appellant contended that the square footage of his basement garage of 322 square feet was erroneously included in the calculation of his walkout basement area and thus was "double-assessed." By agreement of the parties and by order of the Hearing Officer based upon the parties' agreement, appellants were granted leave to submit two to three property record cards identifying properties with basement garages and/or walkout basements which appellants contend were not uniformly assessed within the jurisdiction as compared to the subject property.

Based on that Order, appellants timely made an additional submission in this matter. The submission, however, was not limited to two or three examples of the alleged lack of uniformity as ordered. Instead, appellants submitted a grid of fifteen comparables along with property record cards for fourteen of those suggested comparables. Moreover, appellants set forth 2006 assessment data and available sales price data in this grid along with notations of purported errors in assessments of features and photographs to purportedly illustrate the properties' characteristics which were not reflected on the property record card. Finally, appellants argued this evidence

established overvaluation of the subject as compared to these properties.

The Order was clear that appellants could present two to three examples of basement garages and/or walkout basements which were not uniformly assessed in the jurisdiction. Appellants far exceeded the number set forth in the Order and eleven comparables could clearly be struck from this record on that basis alone. The Property Tax Appeal Board has chosen not to strike the excess comparables. In summary, this additional submission by the appellants purports to demonstrate errors in the records of other properties; i.e., properties where existing walkout basements or "lookout" basements have not been assessed as such and properties with basement garage stalls which have not been assessed as such, or where the basement garage area was then deducted from the remaining assessed basement area. The underlying problem with consideration of this data is that the reader must attempt to decipher the applicable property record cards to ascertain whether the property was or was not assessed as having a walkout basement. The Property Tax Appeal Board finds that from examination of the documents, the contention is not as clear as appellants would argue. Finally, appellants conclude this additional submission with the assertion that the subject property has a fair market value of \$440,000 which should further be adjusted for equalization factors, homestead and home improvement exemptions.

The board of review submitted its "Board of Review - Notes on Appeal" wherein the subject's final assessment of \$166,520 was disclosed. The subject's assessment reflects an estimated market value of \$499,610 using the three-year median level of assessments for DuPage County of 33.33%.

In support of the current assessment, the board of review presented a one-page grid analysis setting forth both the appellants' three comparables and three comparables which the board of review presented as its evidence along with applicable property record cards and black and white photographs of the dwellings. At the hearing it was noted that the board of review's grid analysis did not accurately reflect appellants' comparable number three due to an error in the parcel identification number as presented by the appellants. The parties agreed that for ease of the Property Tax Appeal Board, the board of review could correct this error and present an otherwise identical grid analysis which it did during the course of the hearing.

Examination of the board of review's revised grid of the appellants' comparables along with the property record card reveals that comparable number three has 3,045 square feet of living area, rather than 3,116 square feet of living area as

stated by appellants. Similarly, appellants' comparable number three has 2,284 square feet of unfinished basement area as compared to appellants' assertion of 3,046 square feet of finished basement area. Additionally, there are no more than two fireplaces in appellants' comparable dwellings. Lastly, the parties disagree slightly on the garage building area square footage for appellants' comparable number two.

In support of the current assessment, the board of review's three suggested comparables have the same neighborhood code assigned by the assessor as the subject property. The improvements on those properties were built in either 2001 or 2002. These comparable properties have been improved with two-story, frame and masonry exterior constructed single-family dwellings ranging in size from 2,922 to 3,810 square feet of living area. The dwellings feature one or two fireplaces, central air conditioning and an unfinished basement ranging in size from 1,190 to 2,236 square feet of building area; none of the basements were noted as walkout style. Each property includes a garage ranging in size from 601 to 801 square feet of building area. These properties had improvement assessments ranging from \$91,570 to \$149,740 or from \$31.34 to \$39.30 per square foot of living area. The grid also set forth sale prices for these three properties which occurred from 1998 to 2003 for prices ranging from \$85,000 to \$525,000 or from \$22.31 to \$159.97 per square foot of living area including land.

The board of review called township assessor Frank Pantaleo for testimony. He explained that quality grade 6 is deemed to be "average" based on the quality of construction; the higher the number, like the subject at quality grade 7+, the higher the quality of construction. Although the grid analysis under year built for the subject property stated "2003," the assessor acknowledged the subject property was a "modernized house" which was built in 1956 and modernized in 2003. When asked about what consideration, if any, was given to the subject's 1996 sale price of \$126,000, the assessor noted that, besides the date of sale being too distant for a 2003 assessment, the sale of the subject was between relatives and had never been deemed to be an arm's length transaction for purposes of determining the property's fair market value.

In response to issues raised by the appellants, the township assessor testified that whether a property has well-water or city water is not a consideration for assessment purposes. The assessor also indicated that three-year sales ratio studies are performed utilizing neighborhood codes to compare similar properties within a defined area. In testimony, the township assessor confirmed that driveways are not assessed in the jurisdiction, but dormers were uniformly assessed within the jurisdiction. In testimony, the assessor disputed the contention that the subject property was "double-assessed" with regard to

the walkout basement and basement garage since the basement garage was only given a token assessment value to simply acknowledge its existence.

On cross-examination, the township assessor acknowledged that each of the board of review's suggested comparable properties consisted of new construction built in either 2001 or 2002. While the board of review made a distinction based on the quality grade assigned by the assessor to the subject and the comparables, the assessor in testimony acknowledged that the board of review's more recently constructed suggested comparables were of better quality than the subject property. No one from the assessor's office who had viewed the subject property was available to testify as to the layout of the dwelling, the measurements taken and/or how the basement garage was assessed as compared to the walkout basement.

Based on the foregoing evidence, the board of review requested confirmation of the assessment.

During the time allotted for filing of rebuttal evidence, appellants submitted a written response to the evidence submitted by the board of review along with a compact disc recording of the hearing held before the board of review. In summary, appellants maintained that the subject property was not uniformly assessed.

Lastly, the board of review had been served with the appellants' additional submission referenced above and timely responded. The response notes the submission did not limit itself to two to three comparables as ordered and further asserts that none of the presented properties "are comparable to the subject property." The board of review did not address whether the properties were or were not assessed as having walkout basements.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds that a reduction in the assessment of the subject property is warranted based on the evidence contained in this record.

During the course of the hearing, there was some confusion as to whether the stated total assessment of the subject property by the board of review was before or after deduction of applicable exemptions. As the parties should be aware, the Property Tax Appeal Board is without jurisdiction to determine the exemption of real property from taxation (86 Ill. Admin. Code, Sec. 1910.10(f)). Moreover, also pursuant to the Board's rules, upon receipt of an appeal petition, the board of review is required to file its "completed Board of Review Notes on Appeal disclosing the final assessment of the subject property." (86 Ill. Admin. Code, Sec. 1910.40(a)). The only notation on the "Board of

Review - Notes on Appeal" herein is "all values given are prior to State equalization." Thus, in accordance with the rules of the Property Tax Appeal Board, the final total assessed value of the subject property as established by the DuPage County Board of Review which is under appeal has been deemed to be \$166,520 as stated in the board of review's filing made in this case.

In this appeal, the Board finds that the appellant testified to and was not contradicted that the walkout basement area of the subject property was overstated by the square footage of the basement garage area.

Appellants who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction.

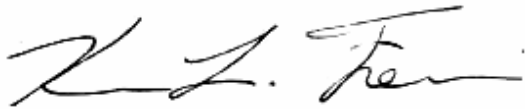
In this appeal, there were a total of six comparable properties submitted by the parties. The Property Tax Appeal Board places the most weight on the properties most similar to the subject in age. In this regard, the Board has placed reduced weight on the three comparables suggested by the board of review since each was newly constructed in 2001 or 2002 as compared to the subject's construction date of 1956 with more recent renovations. Of the appellants' three comparables, least weight has been placed on comparable number three as a one-story, brick exterior constructed dwelling which also is significantly smaller in size than the subject. Appellants' comparables one and two are most similar to the subject in age, size, design, and amenities, except that comparable number two does not have a walkout basement and both comparables have significantly smaller garages. These comparables had improvement assessments of \$24.64 and \$26.29 per square foot of living area. The subject improvement is assessed at \$33.46 per square foot of living area and thus falls above the range established by comparables. After considering adjustments and the differences in the suggested comparables when compared to the subject property, the Board finds a reduction in the subject's improvement assessment is warranted.

As a result of this analysis of the data provided, the Board finds the appellants have adequately demonstrated that the subject dwelling was inequitably assessed by clear and convincing evidence and a reduction is warranted. The reduction arrived at by the Property Tax Appeal Board also more closely resembles the appellants' own contention of the estimated fair market value of the property of \$440,000.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member

Member

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: February 29, 2008



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the

subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.